

**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 2007-241

**JOANNE ELIZABETH CLEVELAND
a.k.a. LIZ CLEVELAND a.k.a. JOANNE
ELIZABETH CARRELL a.k.a. LIZ
CARRELL**

1745 Rodgers Road
Hanford, CA 93230

Registered Nursing License No. 455948

Respondent.

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on December 29, 2007.

It is so ORDERED November 29, 2007.

Lathane W Tate

FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 ARTHUR D. TAGGART,
Supervising Deputy Attorney General
3 LESLIE A. BURGERMYER, State Bar No. 117576
Deputy Attorney General
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8 Attorneys for Complainant

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10 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2007-241

13 **JOANNE ELIZABETH CLEVELAND**
a.k.a. **LIZ CLEVELAND** a.k.a. **JOANNE**
14 **ELIZABETH CARRELL** a.k.a. **LIZ**
15 **CARRELL**

STIPULATED SETTLEMENT
AND DISCIPLINARY ORDER

16 1745 Rodgers Road
Hanford, CA 93230

17 Registered Nursing License No. 455948

18 Respondent.

19
20 **IT IS HEREBY STIPULATED AND AGREED** by and between the parties to the above-
21 entitled proceedings that the following matters are true:

22 **PARTIES**

23 1. Ruth Ann Terry, M.P.H, R.N ("Complainant") is the Executive Officer of the Board
24 of Registered Nursing ("Board"), Department of Consumer Affairs. Complainant brought this action
25 solely in her official capacity and is represented in this matter by Edmund G. Brown Jr., Attorney
26 General of the State of California, by Leslie A. Burgermyer, Deputy Attorney General.

27 2. Respondent Joanne Elizabeth Cleveland a.k.a. Liz Cleveland a.k.a. Joanne Elizabeth
28 Carrell a.k.a. Liz Carrell ("Respondent") is represented in this proceeding by attorney Barry J.

1 Bennett, Esq., whose address is Bennett & Sharpe, 2444 Main St, #110, Fresno, CA 93721;
2 telephone: (559) 485-0120; facsimile: (559) 485-5823.

3 3. On or about August 31, 1990, the Board issued Registered Nursing License No.
4 455948 to Joanne Elizabeth Cleveland ("Respondent"). The Registered Nursing License was in full
5 force and effect at all times relevant to the charges brought in Accusation No. 2007-241 and will
6 expire on August 31, 2008, unless renewed.

7 JURISDICTION

8 4. Accusation No. 2007-241 was filed before the Board, and is currently pending against
9 Respondent. The Accusation and all other statutorily required documents were properly served on
10 Respondent on April 2, 2007. Respondent timely filed her Notice of Defense contesting the
11 Accusation. A true and correct copy of Accusation No. 2007-241 is attached hereto, marked as
12 Exhibit A, and incorporated herein by this reference.

13 ADVISEMENT AND WAIVERS

14 5. Respondent has carefully read, discussed with counsel, and fully understands the
15 charges and allegations in Accusation No. 2007-241. Respondent has also carefully read, discussed
16 with counsel, and fully understands the effects of this Stipulated Settlement and Disciplinary Order.

17 6. Respondent is fully aware of her legal rights in this matter, including the right to a
18 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at
19 her own expense; the right to confront and cross-examine the witnesses against her; the right to
20 present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel
21 the attendance of witnesses and the production of documents; the right to reconsideration and court
22 review of an adverse decision; and all other rights accorded by the California Administrative
23 Procedure Act and other applicable laws.

24 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
25 every right set forth above.

26 CULPABILITY

27 8. Respondent admits the truth of each and every charge and allegation in Accusation
28 No. 2007-241.

9. Respondent agrees that her Registered Nursing License No. 455948 is subject to discipline and she agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

RESERVATION

10. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Board or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

CONTINGENCY

11. This stipulation shall be subject to approval by the Board. Respondent understands and agrees that counsel for Complainant and the staff of the Board may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

OTHER MATTERS

12. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

DISCIPLINARY ORDER

In consideration of the foregoing admissions and stipulations, the parties agree that the Board of Registered Nursing ("Board") may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

IT IS HEREBY ORDERED that Registered Nursing License No. 455948 issued to Respondent Joanne Elizabeth Cleveland a.k.a. Liz Cleveland a.k.a. Joanne Elizabeth Carrell a.k.a.

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1 Liz Carrell ("Respondent") is revoked. However, the revocation is stayed, and Respondent is placed
2 on probation for three (3) years on the following terms and conditions.

3 **Severability Clause.** Each condition of probation contained herein is a separate
4 and distinct condition. If any condition of this Order, or any application thereof, is declared
5 unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other
6 applications thereof, shall not be affected. Each condition of this Order shall separately be valid and
7 enforceable to the fullest extent permitted by law.

8 1. **Obey All Laws.** Respondent shall obey all federal, state, and local laws. A full and
9 detailed account of any and all violations of law shall be reported by Respondent to the Board in
10 writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with this
11 condition, Respondent shall submit completed fingerprint forms and fingerprint fees within forty-five
12 (45) days of the effective date of the decision, unless previously submitted as part of the licensure
13 application process.

14 **Criminal Court Orders.** If Respondent is under criminal court orders, including
15 probation or parole, and the order is violated, this shall be deemed a violation of these probation
16 conditions, and may result in the filing of an accusation and/or petition to revoke probation.

17 2. **Comply with the Board's Probation Program.** Respondent shall fully comply with
18 the conditions of the Probation Program established by the Board and cooperate with representatives
19 of the Board in its monitoring and investigation of the Respondent's compliance with the Board's
20 Probation Program. Respondent shall inform the Board in writing within no more than fifteen (15)
21 days of any address change and shall at all times maintain an active, current license status with the
22 Board, including during any period of suspension.

23 Upon successful completion of probation, Respondent's license shall be fully
24 restored.

25 3. **Report in Person.** Respondent, during the period of probation, shall appear in person
26 at interviews/meetings as directed by the Board or its designated representatives.

27 4. **Residency, Practice, or Licensure Outside of State.** Periods of residency or
28 practice as a registered nurse outside of California shall not apply toward a reduction of this

1 probation time period. Respondent's probation is tolled, if and when she resides outside of
2 California. Respondent must provide written notice to the Board within fifteen (15) days of any
3 change of residency or practice outside the state, and within thirty (30) days prior to re-establishing
4 residency or returning to practice in this state.

5 Respondent shall provide a list of all states and territories where she has ever been
6 licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide
7 information regarding the status of each license and any changes in such license status during the
8 term of probation. Respondent shall inform the Board if she applies for or obtains a new nursing
9 license during the term of probation.

10 5 **Submit Written Reports.** Respondent, during the period of probation, shall submit
11 or cause to be submitted such written reports/declarations and verification of actions under penalty
12 of perjury, as required by the Board. These reports/declarations shall contain statements relative to
13 Respondent's compliance with all the conditions of the Board's Probation Program. Respondent
14 shall immediately execute all release of information forms as may be required by the Board or its
15 representatives.

16 Respondent shall provide a copy of this Decision to the nursing regulatory agency in
17 every state and territory in which she has a registered nurse license.

18 6 **Function as a Registered Nurse.** Respondent, during the period of probation, shall
19 engage in the practice of registered nursing in California for a minimum of twenty-four (24) hours
20 per week for six (6) consecutive months or as determined by the Board.

21 For purposes of compliance with the section, "engage in the practice of registered
22 nursing" may include, when approved by the Board, volunteer work as a registered nurse, or work
23 in any non-direct patient care position that requires licensure as a registered nurse.

24 The Board may require that advanced practice nurses engage in advanced practice
25 nursing for a minimum of twenty-four (24) hours per week for six (6) consecutive months or as
26 determined by the Board.

27 If Respondent has not complied with this condition during the probationary term, and
28 Respondent has presented sufficient documentation of her good faith efforts to comply with this

condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of Respondent's probation period up to one year without further hearing in order to comply with this condition. During the one year extension, all original conditions of probation shall apply.

7 **Employment Approval and Reporting Requirements.** Respondent shall obtain prior approval from the Board before commencing or continuing any employment, paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all performance evaluations and other employment related reports as a registered nurse upon request of the Board.

Respondent shall provide a copy of this Decision to her employer and immediate supervisors prior to commencement of any nursing or other health care related employment.

In addition to the above, Respondent shall notify the Board in writing within seventy-two (72) hours after she obtains any nursing or other health care related employment. Respondent shall notify the Board in writing within seventy-two (72) hours after she is terminated or separated, regardless of cause, from any nursing, or other health care related employment with a full explanation of the circumstances surrounding the termination or separation.

8 **Supervision.** Respondent shall obtain prior approval from the Board regarding Respondent's level of supervision and/or collaboration before commencing or continuing any employment as a registered nurse, or education and training that includes patient care.

Respondent shall practice only under the direct supervision of a registered nurse in good standing (no current discipline) with the Board of Registered Nursing, unless alternative methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are approved.

Respondent's level of supervision and/or collaboration may include, but is not limited to the following:

(a) **Maximum.** The individual providing supervision and/or collaboration is present in the patient care area or in any other work setting at all times.

(b) **Moderate.** The individual providing supervision and/or collaboration is in the patient care unit or in any other work setting at least half the hours Respondent works.

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1 (c) **Minimum.** The individual providing supervision and/or collaboration has
2 person-to-person communication with Respondent at least twice during each shift worked.

3 (d) **Home Health Care.** If Respondent is approved to work in the home health
4 care setting, the individual providing supervision and/or collaboration shall have person-to-person
5 communication with Respondent as required by the Board each work day. Respondent shall
6 maintain telephone or other telecommunication contact with the individual providing supervision
7 and/or collaboration as required by the Board during each work day. The individual providing
8 supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to
9 patients' homes visited by Respondent with or without Respondent present.

10 9 **Employment Limitations.** Respondent shall not work for a nurse's registry, in any
11 private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse,
12 or for an in-house nursing pool.

13 Respondent shall not work for a licensed home health agency as a visiting nurse
14 unless the registered nursing supervision and other protections for home visits have been approved
15 by the Board. Respondent shall not work in any other registered nursing occupation where home
16 visits are required.

17 Respondent shall not work in any health care setting as a supervisor of registered
18 nurses. The Board may additionally restrict Respondent from supervising licensed vocational nurses
19 and/or unlicensed assistive personnel on a case-by-case basis.

20 Respondent shall not work as a faculty member in an approved school of nursing or
21 as an instructor in a Board approved continuing education program.

22 Respondent shall work only on a regularly assigned, identified and predetermined
23 worksite(s) and shall not work in a float capacity.

24 If Respondent is working or intends to work in excess of forty (40) hours per week,
25 the Board may request documentation to determine whether there should be restrictions on the hours
26 of work.

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1 10. **Complete a Nursing Course(s).** Respondent, at her own expense, shall enroll and
2 successfully complete a course(s) relevant to the practice of registered nursing no later than six
3 months prior to the end of her probationary term.

4 Respondent shall obtain prior approval from the Board before enrolling in the
5 course(s). Respondent shall submit to the Board the original transcripts or certificates of completion
6 for the above required course(s). The Board shall return the original documents to Respondent after
7 photocopying them for its records.

8 11. **Cost Recovery.** Respondent shall pay to the Board costs associated with its
9 investigation and enforcement pursuant to Business and Professions Code section 125.3 in the
10 amount of \$5,000.00. Respondent shall be permitted to pay these costs in a payment plan approved
11 by the Board, with payments to be completed no later than three (3) months prior to the end of the
12 probation term.

13 If Respondent has not complied with this condition during the probationary term, and
14 Respondent has presented sufficient documentation of her good faith efforts to comply with this
15 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an
16 extension of Respondent's probation period up to one year without further hearing in order to comply
17 with this condition. During the one year extension, all original conditions of probation will apply.

18 12. **Violation of Probation.** If Respondent violates the conditions of her probation,
19 the Board after giving Respondent notice and an opportunity to be heard, may set aside the stay order
20 and impose the stayed discipline (revocation/suspension) of Respondent's license.

21 If during the period of probation, an accusation or petition to revoke probation has
22 been filed against Respondent's license or the Attorney General's Office has been requested to
23 prepare an accusation or petition to revoke probation against Respondent's license, the probationary
24 period shall automatically be extended and shall not expire until the accusation or petition has been
25 acted upon by the Board.

26 13. **License Surrender.** During Respondent's term of probation, if she ceases practicing
27 due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation,
28 Respondent may surrender her license to the Board. The Board reserves the right to evaluate

1 Respondent's request and to exercise its discretion whether to grant the request, or to take any other
2 action deemed appropriate and reasonable under the circumstances, without further hearing. Upon
3 formal acceptance of the tendered license and wall certificate, Respondent will no longer be subject
4 to the conditions of probation.

5 Surrender of Respondent's license shall be considered a disciplinary action and shall
6 become a part of Respondent's license history with the Board. A registered nurse whose license has
7 been surrendered may petition the Board for reinstatement no sooner than the following minimum
8 periods from the effective date of the disciplinary decision:

9 (a) Two (2) years for reinstatement of a license that was surrendered for any
10 reason other than a mental or physical illness; or

11 (b) One (1) year for a license surrendered for a mental or physical illness.

12 14. **Physical Examination.** Within forty-five (45) days of the effective date of this
13 Decision, Respondent, at her expense, shall have a licensed physician, nurse practitioner, or
14 physician assistant, who is approved by the Board before the assessment is performed, submit an
15 assessment of the Respondent's physical condition and capability to perform the duties of a
16 registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If
17 medically determined, a recommended treatment program will be instituted and followed by the
18 Respondent with the physician, nurse practitioner, or physician assistant providing written reports
19 to the Board on forms provided by the Board.

20 If Respondent is determined to be unable to practice safely as a registered nurse, the
21 licensed physician, nurse practitioner, or physician assistant making this determination shall
22 immediately notify the Board and Respondent by telephone, and the Board shall request that the
23 Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall
24 immediately cease practice and shall not resume practice until notified by the Board. During this
25 period of suspension, Respondent shall not engage in any practice for which a license issued by the
26 Board is required until the Board has notified Respondent that a medical determination permits
27 Respondent to resume practice. This period of suspension will not apply to the reduction of this
28 probationary time period.

1 If Respondent fails to have the above assessment submitted to the Board within the
2 forty-five (45) day requirement, Respondent shall immediately cease practice and shall not resume
3 practice until notified by the Board. This period of suspension will not apply to the reduction of this
4 probationary time period. The Board may waive or postpone this suspension only if significant,
5 documented evidence of mitigation is provided. Such evidence must establish good faith efforts by
6 Respondent to obtain the assessment, and a specific date for compliance must be provided. Only one
7 (1) such waiver or extension may be permitted.

8 15. **Participate in Treatment/Rehabilitation Program for Chemical Dependence.**

9 Respondent, at her expense, shall successfully complete during the probationary period or shall have
10 successfully completed prior to commencement of probation a Board-approved treatment/
11 rehabilitation program of at least six (6) months duration. As required, reports shall be submitted
12 by the program on forms provided by the Board. If Respondent has not completed a Board-approved
13 treatment/rehabilitation program prior to commencement of probation, Respondent, within forty-five
14 (45) days from the effective date of the decision, shall be enrolled in a program. If a program is not
15 successfully completed within the first nine (9) months of probation, the Board shall consider
16 Respondent in violation of probation.

17 Based on Board recommendation, each week Respondent shall be required to attend
18 at least one, but no more than five (5) 12-step recovery meetings or equivalent (e.g., Narcotics
19 Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed by
20 the Board. If a nurse support group is not available, an additional 12-step meeting or equivalent shall
21 be added. Respondent shall submit dated and signed documentation confirming such attendance to
22 the Board during the entire period of probation. Respondent shall continue with the recovery plan
23 recommended by the treatment/rehabilitation program or a licensed mental health examiner and/or
24 other ongoing recovery groups.

25 16. **Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent shall
26 completely abstain from the possession, injection or consumption by any route of all controlled
27 substances and all psychotropic (mood altering) drugs, including alcohol, except when the same are
28 ordered by a health care professional legally authorized to do so as part of documented medical

1 treatment. Respondent shall have sent to the Board, in writing and within fourteen (14) days, by the
2 prescribing health professional, a report identifying the medication, dosage, the date the medication
3 was prescribed, the Respondent's prognosis, the date the medication will no longer be required, and
4 the effect on the recovery plan, if appropriate.

5 Respondent shall identify for the Board a single physician, nurse practitioner or
6 physician assistant who shall be aware of Respondent's history of substance abuse and will
7 coordinate and monitor any prescriptions for Respondent for dangerous drugs, controlled substances
8 or mood-altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall
9 report to the Board on a quarterly basis Respondent's compliance with this condition. If any
10 substances considered addictive have been prescribed, the report shall identify a program for the time
11 limited use of any such substances.

12 The Board may require the single coordinating physician, nurse practitioner, or
13 physician assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive
14 medicine.

15 17. **Submit to Tests and Samples.** Respondent, at her expense, shall participate in a
16 random, biological fluid testing or a drug screening program which the Board approves. The length
17 of time and frequency will be subject to approval by the Board. Respondent is responsible for
18 keeping the Board informed of her current telephone number at all times. Respondent shall also
19 ensure that messages may be left at her current telephone number when she is not available and
20 ensure that reports are submitted directly by the testing agency to the Board, as directed. Any
21 confirmed positive finding shall be reported immediately to the Board by the program and
22 Respondent shall be considered in violation of probation.

23 In addition, Respondent, at any time during the period of probation, shall fully
24 cooperate with the Board or any of its representatives, and shall, when requested, submit to such tests
25 and samples as the Board or its representatives may require for the detection of alcohol, narcotics,
26 hypnotics, dangerous drugs, or other controlled substances.

27 If Respondent has a positive drug screen for any substance not legally authorized and
28 not reported to the coordinating physician, nurse practitioner, or physician assistant, and the Board

1 files a petition to revoke probation or an accusation, the Board may suspend Respondent from
2 practice pending the final decision on the petition to revoke probation or the accusation. This period
3 of suspension will not apply to the reduction of this probationary time period.

4 If Respondent fails to participate in a random, biological fluid testing or drug
5 screening program within the specified time frame, Respondent shall immediately cease practice and
6 shall not resume practice until notified by the Board. After taking into account documented evidence
7 of mitigation, if the Board files a petition to revoke probation or an accusation, the Board may
8 suspend Respondent from practice pending the final decision on the petition to revoke probation or
9 the accusation. This period of suspension will not apply to the reduction of this probationary time
10 period.

11 18. **Mental Health Examination.** Respondent shall, within forty-five (45) days of the
12 effective date of this Decision, have a mental health examination including psychological testing as
13 appropriate to determine her capability to perform the duties of a registered nurse. The examination
14 will be performed by a psychiatrist, psychologist or other licensed mental health practitioner
15 approved by the Board. The examining mental health practitioner will submit a written report of that
16 assessment and recommendations to the Board. All costs are the responsibility of Respondent.
17 Recommendations for treatment, therapy or counseling made as a result of the mental health
18 examination will be instituted and followed by Respondent.

19 If Respondent is determined to be unable to practice safely as a registered nurse, the
20 licensed mental health care practitioner making this determination shall immediately notify the
21 Board and Respondent by telephone, and the Board shall request that the Attorney General's Office
22 prepare an accusation or petition to revoke probation. Respondent shall immediately cease practice
23 and may not resume practice until notified by the Board. During this period of suspension,
24 Respondent shall not engage in any practice for which a license issued by the Board is required, until
25 the Board has notified Respondent that a mental health determination permits Respondent to resume
26 practice. This period of suspension will not apply to the reduction of this probationary time period.

27 If Respondent fails to have the above assessment submitted to the Board within the
28 forty-five (45) day requirement, Respondent shall immediately cease practice and shall not resume

1 practice until notified by the Board. This period of suspension will not apply to the reduction of this
2 probationary time period. The Board may waive or postpone this suspension only if significant,
3 documented evidence of mitigation is provided. Such evidence must establish good faith efforts by
4 Respondent to obtain the assessment, and a specific date for compliance must be provided. Only one
5 such waiver or extension may be permitted.


6 19. Therapy or Counseling Program. Respondent, at her expense, shall participate in
7 an on-going counseling program until such time as the Board releases her from this requirement and
8 only upon the recommendation of the counselor. Written progress reports from the counselor will
9 be required at various intervals.

10 20. Physical Examination. Within forty-five (45) days of the effective date of this
11 decision, respondent, at his/her expense, shall have a licensed physician, nurse practitioner, or
12 physician assistant, who is approved by the Board before the assessment is performed, submit an
13 assessment of the respondent's physical condition and capability to perform the duties of a registered
14 nurse. Such an assessment shall be submitted in a format acceptable to the Board. If medically
15 determined, a recommended treatment program will be instituted and followed by the respondent
16 with the physician, nurse practitioner, or physician assistant providing written reports on forms
17 provided by the Board.

18 ACCEPTANCE


19 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
20 discussed it with my attorney, Barry Bennett, Esq., Bennett & Sharpe. I understand the stipulation
21 and the effect it will have on my Registered Nursing. I enter into this Stipulated Settlement and
22 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision
23 and Order of the Board of Registered Nursing, Department of Consumer Affairs.

24 DATED: 9-20-07

25
26 
27 JOANNE ELIZABETH CLEVELAND a.k.a.
28 LIZ CLEVELAND a.k.a. JOANNE ELIZABETH
CARRELL a.k.a. LIZ CARRELL
Respondent

1 I have read and fully discussed with Respondent Joanne Elizabeth Cleveland a.k.a. Liz
2 Cleveland a.k.a. Joanne Elizabeth Carrell a.k.a. Liz Carrell the terms and conditions and other
3 matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and
4 content.

5 DATED: 20 Sept 107


6
7 
8 BARRY BENNETT, ESQ., BENNETT & SHARPE
9 Attorney for Respondent

10 ENDORSEMENT

11 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
12 submitted for consideration by the Board of Registered Nursing, Department of Consumer
13 Affairs.

14 DATED: 9/21/07

15 EDMUND G. BROWN JR., Attorney General
16 of the State of California

17 
18 LESLIE A. BURGERMYER
19 Deputy Attorney General

20 Attorneys for Complainant

21 10360719.wpd

Exhibit A
Accusation No. 2007-241

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 ARTHUR D. TAGGART,
Supervising Deputy Attorney General
3 LESLIE A. BURGERMYER, State Bar No. 117576
Deputy Attorney General
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Facsimile: (916) 327-8643
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8 Attorneys for Complainant

9 **BEFORE THE**
10 **BOARD OF REGISTERED NURSING**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2007-241

13 **JOANNE ELIZABETH CLEVELAND a.k.a.**
14 **LIZ CLEVELAND a.k.a. JOANNE**
15 **ELIZABETH CARRELL a.k.a. LIZ**
16 **CARRELL**

ACCUSATION

17 1745 Rodgers Road
Hanford, CA 93230

18 Registered Nursing License No. 455948

Respondent.

19 Complainant alleges:

20 **PARTIES**

21 1. Ruth Ann Terry, M.P.H., R.N. ("Complainant") brings this Accusation
22 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,
23 Department of Consumer Affairs ("Board").

24 2. On or about August 31, 1990, the Board issued Registered Nursing
25 License No. 455948 to Joanne Elizabeth Cleveland a.k.a. Liz Cleveland a.k.a. Joanne Elizabeth
26 Carrell a.k.a. Liz Carrell ("Respondent"). The license was active and in effect at all times alleged
27 in this Accusation. The license will expire on March 31, 2008, unless renewed.

28 ///

STATUTORY PROVISIONS

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code ("Code") unless otherwise indicated.

4. Section 118, subdivision (b), of the Code provides that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

5. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

6. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

7. Section 2761 of the Code states, in pertinent part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct,

. . .

"(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter [the Nursing Practice Act] or regulations adopted pursuant to it"

8. Section 2762 of the Code states:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

"(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another,

any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug . . . as defined in Section 4022.

“(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug . . . as defined in Section 4022, . . . to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

...

“(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to the substances described in subdivision (a) of this section.”

9. Section 4022 of the Code states, in pertinent part:

“‘Dangerous drug’ . . . means any drug . . . unsafe for self-use in humans or animals and includes the following:

“(a) Any drug that bears the legend: ‘Caution: federal law prohibits dispensing without prescription,’ ‘Rx only,’ or words of similar import.

...

“(c) Any other drug . . . that by federal law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006.”

10. Code section 4060 provides, in pertinent part:

“No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, . . . , or naturopathic doctor . . . , or furnished pursuant to a drug order issued by a certified nurse-midwife . . . , a nurse practitioner . . . , a physician assistant . . . , a naturopathic doctor . . . , or a pharmacist

11. Health & Safety (“H&S”) Code section 11170 states that no person shall prescribe, administer, or furnish a controlled substance for herself. Controlled substances are defined in, among other things H&S Code section 11056.

12. H&S Code section 11173 provides, in pertinent part:

“(a) No person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by concealment of a material fact.

1 “(b) No person shall make a false statement in any prescription, order,
2 report, or record, required by this division.”

3 **CONTROLLED SUBSTANCE AND DANGEROUS DRUG**

4 13. “Vicodin” is a compound consisting of 5 mg hydrocodone bitartrate, also
5 known as dihydrocodeinone, and 500 mg acetaminophen per tablet and is a Schedule III
6 controlled substance as designated by H&S Code section 11056, subdivision (e)(4).

7 14. “Vicodin” is a dangerous drug within the meaning of Code section 4022.

8 **COST RECOVERY**

9 15. Section 125.3 of the Code provides, in pertinent part, that the Board may
10 request the administrative law judge to direct a licentiate found to have committed a violation or
11 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
12 and enforcement of the case.

13 **FIRST CAUSE FOR DISCIPLINE**

14 **(Unlawfully Obtaining, Possessing, and Self-Administering**
15 **Controlled Substance or Dangerous Drug)**

16 16. Respondent is subject to disciplinary action under Code section 2761,
17 subdivision (a), on the ground of unprofessional conduct as defined in Code section 2762,
18 subdivision (a), in that in and between December 2002 and March 2003, Respondent committed
19 the following acts:

20 **Unlawfully Obtaining Controlled Substance or Dangerous Drug**

21 (a) On or about December 7, 8, and 15, 2002, and February 16 and March 2,
22 2003, while on duty as a registered nurse at Central Valley General Hospital (“Hospital”),
23 Hanford, California, Respondent obtained quantities of Vicodin ES six (6) pack, a controlled
24 substance and dangerous drug, by fraud, misrepresentation, or subterfuge, in violation of H&S
25 Code section 11173, subdivision (a), as follows:

26 (1) On or about December 7, 2002, at 2155 hours, Respondent signed-out and
27 withdrew one (1) Vicodin ES six (6) pack from the Hospital’s 24-Hour Controlled Substance
28 Record (“Pharmacy”) under the name of Patient No. 223200, without physicians’ orders, but

1 falsely wrote the name of Dr. Smith as the prescribing physician on the record, did not document
2 administering the medication in the patient's care records, and otherwise failed to account for the
3 disposition of the Vicodin.

4 (2) On or about December 8, 2002, at 615 hours, Respondent signed-out and
5 withdrew two (2) Vicodin ES six (6) packs from the Hospital's Pharmacy under the name of
6 Patient No. 221758, without physician's orders, but falsely wrote the name of Dr. Enloe as the
7 prescribing physician on the record, another nurse documented administration of the medication
8 to the patient of one (1) Vicodin ES six (6) pack in the patient's care records, but Respondent
9 otherwise failed to account for the disposition or wastage of the second Vicodin.

10 (3) On or about December 15, 2002, at 0025 hours, Respondent signed-out
11 and withdrew one (1) Vicodin ES six (6) pack from the Hospital's Pharmacy under the name of
12 Patient No. 244848, without physician's orders, but falsely wrote the name of Dr. Smith as the
13 prescribing physician, did not document administering the medication in the patient's care
14 records, and otherwise failed to account for the disposition of the Vicodin.

15 (4) On or about February 16, 2003, at 0605 hours, Respondent signed-
16 out and withdrew one (1) Vicodin ES six (6) pack from the Hospital's Pharmacy under the name
17 of Patient No. 234682, without physician's orders, but did not document administering the
18 medication in the patient's care records, and otherwise failed to account for the disposition of the
19 Vicodin.

20 (5) On or about March 2, 2003, at 0200 hours, Respondent signed-out and
21 withdrew from the Hospital's Pharmacy one (1) Vicodin ES six (6) pack under the name of
22 Patient No. 233907, without physician's orders, but falsely wrote the name of Dr. Smith as the
23 prescribing physician, did not document administering the medication in the patient's care
24 records, and otherwise failed to account for the disposition of the Vicodin.

25 **Unlawfully Possessing Controlled Substance and Dangerous Drug**

26 (b) In and between December 2002 and March 2003, Respondent possessed
27 quantities of Vicodin ES six (6) packs without valid prescriptions from a physician, dentist,

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1 podiatrist, optometrist, veterinarian, or naturopathic doctor, as set forth in paragraph 16,
2 subparagraph (a), above, in violation of Code section 4060.

3 **Unlawfully Self-Administering Controlled Substance and Dangerous Drug**

4 (c) In and between December 2002 and March 2003, Respondent self-
5 administered Vicodin, a controlled substance and dangerous drug, in violation of H&S Code
6 section 11170 on an unknown number of dates.

7 **SECOND CAUSE FOR DISCIPLINE**

8 **(Falsified, Grossly Incorrect, and/or Grossly Inconsistent**
9 **Entries in Hospital and/or Patient Records)**

10 17. Respondent is subject to disciplinary action under Code section 2761,
11 subdivision (a)(1), on the grounds of unprofessional conduct, as defined in Code section 2762,
12 subdivision (e), in that in and between December 2002 and March 2003, while employed and on
13 duty as a registered nurse at Central Valley General Hospital ("Hospital"), Hanford, California,
14 Respondent made false, grossly incorrect, and/or grossly inconsistent entries in hospital and/or
15 patient records in the following respects:

16 (a) On or about December 7, 2002, at 2155 hours, Respondent signed-out and
17 withdrew one (1) Vicodin ES six (6) pack from the Hospital's 24-Hour Controlled Substance
18 Record ("Pharmacy") under the name of Patient No. 223200, without physician's orders, but
19 falsely wrote the name of Dr. Smith as the prescribing physician on the record, did not document
20 administering the medication in the patient's care records, and otherwise failed to account for the
21 disposition of the Vicodin.

22 (b) On or about December 8, 2002, at 615 hours, Respondent signed-out and
23 withdrew two (2) Vicodin ES six (6) packs from the Hospital's Pharmacy under the name of
24 Patient No. 221758, without physician's orders, but falsely wrote the name of Dr. Enloe as the
25 prescribing physician on the record, another nurse documented administration of the medication
26 to the patient of one (1) Vicodin ES six (6) pack in the patient's care records, but Respondent
27 otherwise failed to account for the disposition or wastage of the second Vicodin.

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1 (c) On or about December 15, 2002, at 0025 hours, Respondent signed-out
2 and withdrew one (1) Vicodin ES six (6) pack from the Hospital's Pharmacy under the name of
3 Patient No. 244848, without physician's orders, but falsely wrote the name of Dr. Smith as the
4 prescribing physician, did not document administering the medication in the patient's care
5 records, and otherwise failed to account for the disposition of the Vicodin.

6 (d) On or about February 16, 2003, at 0605 hours, Respondent signed-
7 out and withdrew one (1) Vicodin ES six (6) pack from the Hospital's Pharmacy under the name
8 of Patient No. 234682, without physician's orders, but did not document administering the
9 medication in the patient's care records, and otherwise failed to account for the disposition of the
10 Vicodin.

11 (e) On or about March 2, 2003, at 0200 hours, Respondent signed-out and
12 withdrew from the Hospital's Pharmacy one (1) Vicodin ES six (6) pack under the name of
13 Patient No. 233907, without physician's orders, but falsely wrote the name of Dr. Smith as the
14 prescribing physician, did not document administering the medication in the patient's care
15 records, and otherwise failed to account for the disposition of the Vicodin.

16 **PRAYER**

17 WHEREFORE, Complainant requests that a hearing be held on the matters herein
18 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

19 1. Revoking or suspending Registered Nursing License No. 455948, issued to
20 Joanne Elizabeth Cleveland a.k.a. Liz Cleveland a.k.a. Joanne Elizabeth Carrell a.k.a Liz Carrell;

21 2. Ordering Joanne Elizabeth Cleveland a.k.a. Liz Cleveland a.k.a. Joanne
22 Elizabeth Carrell a.k.a Liz Carrell to pay the Board of Registered Nursing the reasonable costs of
23 the investigation and enforcement of this case, pursuant to Business and Professions Code section
24 125.3; and

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3. Taking such other and further action as deemed necessary and proper.

DATED: 3/26/07


RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

SA2006102556

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